IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 596 to 600 & 660 of 2002

HONOURABLE MR.JUSTICE KS JHAVERI

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STATE OF GUJARAT - Petitioner(s)

Versus

SHAMBHUBHAI CHANABHAI - Respondent(s)

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Appearance :

Mr. M.R. Mengdey, AGP, for the petitioners.

MR KISHOR M PAUL for Respondent

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 28/11/2005

ORAL JUDGMENT

1. These petitions are directed against the awards passed by the Labour Court, Junagadh in various references whereby the petitioner was directed to reinstate the respondents on their original post with effect from 27.4.1995 as new appointees along with 40% back wages.

2. The short facts of the case are that the respondents were working with the petitioner as daily wagers and their services were terminated without following proper procedure. The respondents, therefore, raised disputes which were referred to Labour Court. After hearing the parties the Labour

Court passed the awards as stated hereinabove.

3. It is reported that in pursuance of the award of the Labour Court the respondents have already been reinstated and therefore I am of the opinion that it would not be appropriate to disturb the said position at this stage. Even otherwise, I am in complete agreement with the reasonings adopted and findings arrived at by the Labour Court. Therefore the only question is with regard to back wages.

4. The law on the subject is well settled. In the case of Ram Ashrey Singh Vs. Ram Bux Singh, reported in (2003) II LLJ 176, it is held that the workman had no automatic entitlement to back wages since it is discretionary and has to be dealt with in accordance with facts and circumstances of each case. In the case of General Manager, Haryana Roadways Vs. Rudhan Singh, reported in JT 2005(6) SC 137 (=2005 (5) SCC 591), after referring to various decisions on the said subject, the Apex Court held that order for payment of back wages should not be passed in mechanical manner, but a host of factors are to be taken into consideration before passing any such order.

5. In the premises aforesaid, the petition is partly allowed. The

awards qua back wages are quashed and set aside. The rest of the award is confirmed. The award of the Labour Court is modified to the aforesaid extent. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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